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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/736,298

12/15/2000

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EXAMINER

MURPHY, RHONDA L

ART UNIT

PAPER NUMBER

2416

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DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/736,298	<b>Applicant(s)</b> BENNAI ET AL.	
	<b>Examiner</b> RHONDA MURPHY	<b>Art Unit</b> 2416	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 August 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5,9 and 11-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3,5 and 9 is/are allowed.
- 6) ☒ Claim(s) 4 and 11-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This communication is responsive to the amendment filed on 8/15/08. Accordingly, claims 6-8 and 10 have been previously canceled and claims 1-5, 9 and 11-13 are currently pending in this application.

### ***Response to Arguments***

1. Applicant's arguments, see page 2, filed 8/15/08, with respect to claim 1 have been fully considered and are persuasive. The rejection of claim 1 has been withdrawn.
2. Applicant's arguments filed 8/15/08 have been fully considered but they are not persuasive. As to claim 4, Applicants argue Kim fails to disclose inhibiting functionality of a subset of said information channels if the signaling channel in service is congested. However, Examiner respectfully disagrees. In column 1, lines 61 to column 2, line 5, Kim discloses when B channel traffic (information channels) are denied and/or used up, the D channel (signaling channel) service is blocked/congested. Kim's teaching of denied/used up B channel traffic and blocked/congested D channel service reads upon the claimed limitations.
3. Thus, it is Examiner's position that all claim limitations have been met and the rejection has been maintained.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 4 and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kobayashi et al. (US 5,978,380) in view of Kato (US 6,683,880) and Kim (US 4,821,264).

**Regarding claim 4**, Kobayashi teaches a communication method using a first access (Fig. 10; physical cable 30a) including a plurality of information channels for transmitting voice and first data and one signaling channel for transmitting signaling signals and second data relating to at least one of said access and said first data (col. 2, lines 17-21), said method further comprising the step of providing at least one additional

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signaling channel for use in conjunction with at least one of said information channels (col. 2, lines 17-21; common signaling channel).

Kobayashi further teaches priority channels (col. 10, lines 62-64), however fails to explicitly disclose determining an order of priority of the use of the signaling channels and assigning the highest priority functional signaling channel to the access.

However, Kato teaches determining an order of priority of the use of the signaling channels, and assigning the highest priority functional signaling channel to the access (col. 5, lines 38-47; col. 6, lines 17-20).

In view of this, it would have been obvious to one skilled in the art to modify Kobayashi's method by incorporating Kato's teaching of priority levels for the signaling channels, so as to provide an order in which the signaling channels are used and further improve reliability of the connecting service (col. 6, lines 21-23).

Kobayashi and Kato fail to explicitly disclose said method further comprising the step of inhibiting functionality of a subset of said information channels if the signaling channel in service is congested.

However, Kim teaches the step of inhibiting functionality of a subset of said information channels if the signaling channel in service is congested (col. 2, lines 2-5).

In view of this, it would have been obvious to one skilled in the art to inhibit functionality of a subset of information channels when the signaling channel is congested, since a congested signaling channel cannot provide signaling or control data for the associated information channels.

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**Regarding claim 11**, Kobayashi, Kato and Kim teach a method according to claim 4.

Kobayashi fails to explicitly disclose wherein said step of inhibiting functionality comprises rendering said subset of said information channels unavailable for use in setting up calls.

However, it would have been obvious to one skilled in the art to render said subset of said information channels unavailable for use in setting up calls, since a congested signaling channel cannot provide signaling or control data for the associated information channels, thus making the information channels unavailable for use in a call setup procedure.

**Regarding claim 12**, Kobayashi, Kato and Kim teach a method according to claim 4.

Kobayashi fails to explicitly disclose wherein said step of inhibiting functionality comprises rendering said subset of said information channels unavailable for use in modifying calls that have already been set up.

However, it would have been obvious to one skilled in the art to render said subset of said information channels unavailable for use in modifying calls that have already been set up, since a congested signaling channel cannot provide signaling or control data for the associated information channels, thus preventing call modification.

**Regarding claim 13**, Kobayashi, Kato and Kim teach a method according to claim 4.

Kobayashi fails to explicitly teach wherein said congested signaling channel is incapable of managing all signaling signal transmissions for all information channels of said first access.

However, it would have been obvious to one skilled in the art to conclude a congested signaling channel is incapable of managing all signaling signal transmissions for all information channels of said first access, since a congested signaling channel cannot provide signaling or control data for the associated information channels.

***Allowable Subject Matter***

4. Claims 1 - 3, 5 and 9 are allowed.

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RHONDA MURPHY whose telephone number is

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(571)272-3185. The examiner can normally be reached on Monday - Friday 9:00 - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Firmin Backer can be reached on (571) 272-6703. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Rhonda Murphy  
Examiner  
Art Unit 2416

/FIRMIN BACKER/  
Supervisory Patent Examiner, Art Unit 2416